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RUFUS CHOATE

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FROM

The Boston Bar Association.

27 Oct. 1899.



UNIVERSITY
OF

1911



ADDRESSES

DELIVERED AT THE UNVEILING
OF THE STATUE

of

RUFUS CHOATE

in the

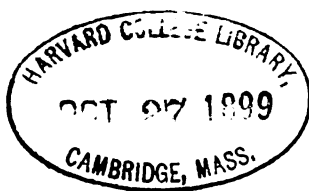
COURT HOUSE IN BOSTON,

October 15, 1898.

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The Boston Bar Association.

PRIVATELY PRINTED BY THE
BAR ASSOCIATION OF THE CITY OF BOSTON.
1899.

MR. GEORGE B. HYDE, formerly a resident of Boston and Master of the Dwight and Everett public schools, bequeathed money to the City of Boston for the purpose of providing a statue of Rufus Choate.

The statue is of bronze, and was executed by **Daniel C. French**. It has been placed in the large hall of the County Court House in Pemberton Square, and bears the following inscriptions:—

RUFUS CHOATE.

1799–1859.

ERECTED BY THE CITY OF BOSTON

WITH MONEY BEQUEATHED

FOR THE PURPOSE BY

GEORGE B. HYDE.

Sculptor,

DANIEL C. FRENCH.

The ceremony of unveiling the statue and presenting it to the City took place in the large hall of the Court House on Saturday, Oct. 15, 1898.

His Honor Mayor Quincy entrusted to the Bar Association of the City of Boston the duty of arranging and conducting the ceremony, and the

Association acted through a committee, consisting of Solomon Lincoln, Alfred Hemenway, Patrick A. Collins, Edward W. Hutchins, and Richard M. Saltonstall.

The order of exercises was as follows :—

PROGRAMME.

1. INTRODUCTORY ADDRESS,

BY

LEWIS S. DABNEY, Esq.,

President of the Bar Association of the City of Boston.

2. UNVEILING OF THE STATUE AND PRESENTATION TO THE CITY OF BOSTON,

BY

BENJAMIN D. HYDE, Esq.,

In behalf of the Donor.

3. ACCEPTANCE OF THE STATUE ON BEHALF OF THE CITY, AND DELIVERY TO THE JUSTICES OF THE SUPREME JUDICIAL COURT,

BY

HIS HONOR MAYOR QUINCY.

4. ACCEPTANCE OF THE CUSTODY OF THE STATUE ON BEHALF OF THE JUSTICES OF THE SUPREME JUDICIAL COURT,

BY

CHIEF JUSTICE FIELD.

5. ADDRESS,

BY

Hon. JOSEPH H. CHOATE,

of New York.

(4)

INTRODUCTORY ADDRESS OF LEWIS S. DABNEY, ESQ.,

PRESIDENT OF THE BAR ASSOCIATION OF THE CITY OF BOSTON.

YOUR EXCELLENCY, LADIES AND GENTLEMEN AND
MEMBERS OF THE BAR:

WE are met this morning to witness the unveiling and formal presentation to the city of Boston of Mr. French's statue of Rufus Choate, which is the testamentary gift of the late George B. Hyde. It has been thought appropriate that the simple exercises of the occasion should be under the direction of that bar of which Mr. Choate in his lifetime was a conspicuous leader.

Of Mr. Choate it is not my place on this occasion to speak to you at length. That privilege has fallen to other and more worthy lips. Born in 1799 and dying in 1859, he filled those sixty years of life with a career professional, public and literary, which may well be at once the emulation and the despair of every ambitious, industrious and gifted soul.

George B. Hyde was an esteemed and honored school teacher of the city of Boston. Born in Sturbridge in the year 1811, after some preliminary teaching in Walpole and in Dorchester, he came to Boston where he was first the principal of the Dwight School for boys, and afterwards the principal of the Everett School for girls, with which last his memory is most identified. He was a great admirer of Mr. Choate and lost no opportunity of hearing him speak. When he died, he by his will devoted the accumulations of a frugal

and industrious life, first to the support of his widow as long as she should survive him, and after her death to public objects. He gave a legacy to his native town of Sturbridge for a library, a legacy to Harvard College, a legacy to the Boston Museum of Fine Arts, the Conservatory of Music, and others, and to the city of Boston a statue of Rufus Choate.

The order of exercises to-day you will have seen from your programme. We have with us Mr. Benjamin D. Hyde, representing the donor, who will unveil the statue and formally present it to the city of Boston represented by our honored Mayor who is with us, and who will receive the statue on behalf of the city. We have with us, too, our eminent Chief Justice of Massachusetts. The Justices of the Supreme Judicial Court are, as you know, the custodians of the court house and of what it contains, and the Chief Justice will receive from the Mayor the statue into their keeping.

The Bar Association counts itself fortunate in having been able to induce Mr. Joseph H. Choate, the distinguished kinsman of the subject of the statue, to return to us and to address us on this occasion. The bar of New York indeed claims him as its chief ornament, and through the bar of the Supreme Court of the United States, of which he is a member, the bar of the whole United States of America may well claim him. But by birth he belongs to the Commonwealth of Massachusetts, for he was born on her soil, and he belongs to us because he studied law in Boston and his first admission to any bar was to our bar, — the bar of the County of Suffolk. He will tell us of his great kinsman, and of the meaning which this statue will have for all of us, and for the bar of the future as they tread this hall on the way to the scenes of their daily labors.

ADDRESS OF BENJAMIN D. HYDE, ESQ.

I HAVE been requested, as the most available relative, to represent the donor of this statue we are to unveil to-day.

More than half a century ago, there was situated, on the site of the Catholic Cathedral on Washington Street, the wine store of John D. Williams. There being no bridge between Boston and Cambridge at that time, this was the great meeting place of the farmers as they came into the city from over the Neck. In 1844, the city deciding to build a bridge across the Charles River, Mr. Williams moved to the foot of State Street as a better business situation; the old wine store was converted into a school, and George B. Hyde, a young man of thirty-three, was engaged as one of its instructors. It was not his first attempt as a school-master; to his father's great chagrin he had made an utter failure of teaching in Amherst, and there was little in these early days to foretell his marked success as a teacher in later years.

From this beginning, Mr. Hyde was connected with various schools; for many years he was associated with that venerable and genial master of the Dwight School, Mr. James A. Page, and for nearly twenty years he remained the brilliant and beloved head of the Everett Grammar School for Girls.

There was little of the old-fashioned schoolmaster in Mr. Hyde's outward appearance, his erect and sturdy frame seemed better suited to breast the bustle and strife of a

more active career; to see him in his study, with coat off and waistcoat unbuttoned, smoking a well browned pipe as he pored over his book, utterly unconscious of what was going on around him, he certainly made a picture hardly in keeping with the typical student of to-day. His was a positive character, strong in his likes and dislikes, generous in his charities, vigorous in the expression of his opinion on questions of public moment. Seldom do we meet a man on whom four score years rests so lightly as they did on Mr. Hyde. He seemed as young and ready for a joke, as pleased to join in a romp, as though he were but twenty.

The donor of this statue never made the acquaintance of Rufus Choate, but, if I may be pardoned one anecdote, I think the occasion of his first seeing the great lawyer, interesting, as shedding a side light on the character of both men. One morning, a few years previous to the Rebellion, Mr. Hyde, who was an extremely early riser, was walking down Washington Street shortly after sunrise; suddenly his attention was arrested by a tall figure, broad of shoulders yet slight of form, striding up the street with a nervous and rapid gait; the man was dressed in brown and bending over a book absorbed in his reading. For some reason the sidewalk did not suit the advancing stranger so he must tramp up the very middle of Washington Street looking neither to the right or the left, utterly oblivious of early market teams or chance pedestrians. Fortunately it was before the days of electric cars. The man was Rufus Choate, the book a Greek classic, the hour five A. M.

I have frequently been asked what it was that attracted Mr. Hyde to this illustrious lawyer. It was not friendship, for he never knew Rufus Choate. It was not a personal magnetism, for Mr. Hyde seldom saw him. It was not the brilliant orator, or the statesman, but Rufus Choate the great advocate.

The Commonwealth of Massachusetts is studded with the statues of statesmen and orators, of soldiers and philanthropists, raised by grateful citizens in remembrance of services rendered to the state. I feel honored to represent one who saw in the work done by a lawyer as distinguished from the judge, services equally worthy of perpetuation.

Mr. Mayor, in behalf of George B. Hyde, I present to the City of Boston, this statue of that peerless advocate, Rufus Choate.

ADDRESS OF HIS HONOR MAYOR QUINCY.

MR. PRESIDENT:

MY part in this ceremony is a very brief one. The full charge of these exercises has been placed in the hands of the Bar Association of the City of Boston, and I am merely here to express, on behalf of the city, its gratitude for this interesting gift, to commemorate and keep alive the memory of one of the great and unique figures of the Boston bar. The gift of Mr. Hyde may well serve as an example to encourage other citizens of Boston to endow the municipality in like manner with memorials of the prominent characters who have been identified with this community in the past, and are most worthy of being held in its remembrance in the future. My office is merely to express the appreciation in which the city of Boston holds the memory of the generous donor of this statue of Rufus Choate, and to turn it over to the safe custody of the justices of the Supreme Judicial Court.

ADDRESS OF CHIEF JUSTICE FIELD,

OF SUPREME JUDICIAL COURT.

MR. MAYOR :

AS the justices of the Supreme Judicial Court are charged with the custody of the Court House, they gladly accept the responsibility of taking under their care this statue of Mr. Choate. It is peculiarly fitting that statues of the leaders of the bar should adorn the Court House. Rufus Choate "undoubtedly was fashioned to much honor from his cradle." In college he was easily *primus inter pares*, — not only the first scholar of his class but the first scholar of his college. How gloriously he kept the promise of his youth you well know. Some here present saw him in practice at the bar, and his visible image will recall the memories of his forensic triumphs. By the unanimous testimony of his contemporaries he was one of the most distinguished advocates of his time at the American bar. He was, I think, the best beloved of the great lawyers of his generation in Massachusetts. Everything about him was unique. The sweetness of his temper as contrasted with the intenseness of his mind and the vehemence of his action is perhaps the trait best remembered. His quiet, suggestive, penetrating wit has borne the test of time, and even now furnishes the profession with its best stories. He had the rich imagination, and the gracious, affluent speech of the Oriental, with an occasional exaggeration or exuberance of humor distinctly Western and American. It was, however, the quickness and versatility of his mind, his keen and dis-

criminating logic, his wealth of illustration and suggestion, his unerring judgment, his vivid and dramatic portrayal of the motives and passions of human life, which, combined with great industry and learning, gave him the first place at the bar. He was almost equally eminent as an orator before courts and juries, before deliberative assemblies, and in occasional discourses before the people. He had the temperament and ambition of a scholar, and he literally wore himself out by always striving for self-improvement, by always acting upon what he called the capital maxim of doing his best. To have spent such extraordinary abilities often upon the trial of small causes may seem foolish enough, but it is not for me to blame or praise him. There is one here of his name and blood who *haud longo intervallo* has followed in his footsteps, and can best tell by what qualities of mind and character, by what labors, and through what contentions and rivalries he reached, long before he died, the lonely summits of our profession.





ADDRESS OF JOSEPH H. CHOATE,
OF NEW YORK.

I DEEM it a very great honor to have been invited by the Suffolk Bar Association to take part on this occasion in honor of him who still stands as one of the most brilliant ornaments of the American Bar in its annals of two centuries. Bearing his name and lineage, and owing to him, as I do, more than to any other man or men — to his example and inspiration, to his sympathy and helping hand — whatever success has attended my own professional efforts, I could not refuse the invitation to come here to-day to the dedication of this statue, which shall stand for centuries to come, and convey to the generations who knew him not some idea of the figure and the features of Rufus Choate. Neither bronze nor marble can do him justice. Not Rembrandt himself could reproduce the man as we knew and loved him — for until he lay upon his death-bed he was all action, the “noble, divine, godlike action” of the orator — and the still life of art could never really represent him as he was.

I am authorized, at the outset, to express for the surviving children of Mr. Choate their deep sense of gratitude to the generous donor of this statue of their honored father, and their complete appreciation of the sentiment which has inspired the city and the court to accept it as a public treasure, and to give it a permanent home at the very gates of the Temple of Justice, at whose shrine he worshipped. They desire also to express publicly on this occasion their

admiration of the statue itself, as a work of art, and a faithful portrait, in form and feature, of the living man as he abides in their loving memory. The city of Boston is certainly indebted to Mr. French for his signal skill in thus adding a central figure to that group of great orators whom its elder citizens once heard with delight, — Webster, Choate, Everett, Mann, Sumner and Garrison. In life, they divided the sentiments and applause of her people. In death, they share the honors of her Pantheon.

It is forty years since he strode these ancient streets with his majestic step — forty years since the marvellous music of his voice was heard by the living ear — and those of us who, as students and youthful disciples, followed his footsteps, and listened to his eloquence, and almost worshipped his presence, whose ideal and idol he was, are already many years older than he lived to be ; but there must be a few still living, and present here to-day, who were in the admiring crowds that hung with rapture on his lips, in the courts of justice, in the densely packed assembly, in the Senate, in the Constitutional Convention, or in Faneuil Hall, consecrated to Freedom, and who can still recall, among life's most cherished memories, the tones of that matchless voice, that pallid face illuminated with rare intelligence, the flashing glance of his dark eye, and the light of his bewitching smile. But in a decade or two more, these lingering witnesses of his glory and his triumphs will have passed on, and to the next generation he will be but a name and a statue, enshrined in fame's temple with Cicero and Burke, with Otis and Hamilton and Webster, with Pinkney and Wirt, whose words and thoughts he loved to study and to master.

Many a noted orator, many a great lawyer, has been lost in oblivion in forty years after the grave closed over him, but I venture to believe that the bar of Suffolk, aye, the whole bar of America, and the people of Massachusetts, have kept

the memory of no other man alive and green so long, so vividly, and so lovingly, as that of Rufus Choate. Many of his characteristic utterances have become proverbial, and the flashes of his wit, the play of his fancy, and the gorgeous pictures of his imagination are the constant themes of reminiscence, wherever American lawyers assemble for social converse. What Mr. Dana so well said over his bier is still true to-day: "When as lawyers we meet together in tedious hours and seek to entertain ourselves, we find we do better with anecdotes of Mr. Choate, than on our own original resources." The admirable biography of Professor Brown, and his arguments, so far as they have been preserved, are text books in the profession; and so the influence of his genius, character and conduct is still potent and far reaching in the land.

You will not expect me, upon such an occasion, to enter upon any narrative of his illustrious career, so familiar to you all, or to undertake any analysis of those remarkable powers which made it possible. All that has been done already by many appreciative admirers, and has become a part of American literature. I can only attempt, in a most imperfect manner, to present a few of the leading traits of that marvellous personality, which we hope that this striking statue will help to transmit to the students, lawyers and citizens who, in the coming years, shall throng these portals.

How it was that such an exotic nature, so ardent and tropical in all its manifestations, so truly southern and Italian in its impulses, and at the same time so robust and sturdy in its strength, could have been produced upon the bleak and barren soil of our northern cape, and nurtured under the chilling blasts of its east winds, is a mystery insoluble. Truly, "this is the Lord's doing, and it is marvellous in our eyes." In one of his speeches in the Senate, he draws

the distinction between "the cool and slow New England men, and the mercurial children of the sun, who sat down side by side in the presence of Washington, to form our more perfect union." If ever there was a mercurial child of the sun, it was himself most happily described. I am one of those who believe that the stuff that a man is made of has more to do with his career than any education or environment. The greatness that is achieved, or is thrust upon some men, dwindles before that of him who is born great. His horoscope was propitious. The stars in their courses fought for him. The birthmark of genius, distinct and ineffaceable, was on his brow. He came of a long line of pious and devout ancestors, whose living was as plain as their thinking was high. It was from father and mother that he derived the flame of intellect, the glow of spirit, and the beauty of temperament that were so unique.

And his nurture to manhood was worthy of the child. It was "the nurture and admonition of the Lord." From that rough pine cradle, which is still preserved in the room where he was born, to his premature grave at the age of fifty-nine, it was one long course of training and discipline of mind and character, without pause or rest. It began with that well-thumbed and dog's-eared Bible from Hog Island, its leaves actually worn away by the pious hands that had turned them, read daily in the family from January to December, in at Genesis and out at Revelation every two years; and when a new child was born in the household, the only celebration, the only festivity, was to turn back to the first chapter, and read once more how "in the beginning God created the heaven and the earth," and all that in them is. This Book, so early absorbed and never forgotten, saturated his mind and spirit more than any other, more than all other books combined. It was at his tongue's end, at his fingers' ends — always close at hand until those

last languid hours at Halifax, when it solaced his dying meditations. You can hardly find speech, argument or lecture of his, from first to last, that is not sprinkled and studded with biblical ideas and pictures, and biblical words and phrases. To him the book of Job was a sublime poem. He knew the Psalms by heart, and dearly loved the prophets, and above all Isaiah, upon whose gorgeous imagery he made copious drafts. He pondered every word, read with most subtle keenness, and applied with happiest effect. One day coming into the Crawford House, cold and shivering — and you remember how he could shiver — he caught sight of the blaze in the great fireplace, and was instantly warm before the rays could reach him, exclaiming, “Do you remember that verse in Isaiah, ‘Aha! I am warm. I have *seen* the fire’?” and so his daily conversation was marked.

And upon this solid rock of the Scriptures he built a magnificent structure of knowledge and acquirement, to which few men in America have ever attained. History, philosophy, poetry, fiction, all came as grist to his mental mill. But with him, time was too precious to read any trash; he could winnow the wheat from the chaff at sight, almost by touch. He sought knowledge, ideas, for their own sake, and for the language in which they were conveyed. I have heard a most learned jurist gloat over the purchase of the last sensational novel, and have seen a most distinguished bishop greedily devouring the stories of Gaboriau one after another, but Mr. Choate seemed to need no such counter-irritant or blister, to draw the pain from his hurt mind. Business, company, family, sickness — nothing could rob him of his ‘one hour each day’ in the company of illustrious writers of all ages. How his whole course of thought was tinged and embellished with the reflected light of the great Greek orators, historians and poets; how Roman history, fresh in his mind as the events of yesterday, supplied him

with illustrations and supports for his own glowing thoughts and arguments, all of you who have either heard him or read him know.

✓ But it was to the great domain of English literature that he daily turned for fireside companions, and really kindred spirits. As he said in a letter to Sumner, with whom his literary fraternity was at one time very close: "Mind that Burke is the fourth Englishman, — Shakspeare, Bacon, Milton, Burke"; and then in one of those dashing outbursts of playful extravagance, which were so characteristic of him, fearing that Sumner, in his proposed review, might fail to do full justice to the great ideal of both, he adds: "Out of Burke might be cut 50 Mackintoshes, 175 Macaulays, 40 Jeffreys and 250 Sir Robert Peels, and leave him greater than Pitt and Fox together." In the constant company of these great thinkers and writers he revelled, and made their thoughts his own; and his insatiable memory seemed to store up all things committed to it, as the books not in daily use are stacked away in your public library, so that at any moment, with notice or without, he could lay his hand straightway upon them. What was once imbedded in the gray matter of his brain did not lie buried there, as with most of us, but grew and flourished and bore fruit. What he once read he seemed never to forget.

7 This love of study became a ruling passion in his earliest youth. To it he sacrificed all that the youth of our day — even the best of them — consider indispensable, and especially the culture and training of the body; and when we recall his pale face, worn and lined as it was in his later years, one of his most pathetic utterances is found in a letter to his son at school: "I hope that you are well and studious, and among the best scholars. If this is so, I am willing you should play every day till the blood is ready to burst from your cheeks. Love the studies that will make you wise,

useful and happy when there shall be no blood at all to be seen in your cheeks or lips." He never rested from his delightful labors—and that is the pity of it—he took no vacations. Except for one short trip to Europe, when warned of a possible breakdown in 1850, an occasional day at Essex, a three days' journey to the White Mountains, was all that he allowed himself. Returning from such an outing in the summer of 1854, on which it was my great privilege to accompany him, he said, "That is my entire holiday for this year." So that when he told Judge Warren so playfully that "The lawyer's vacation is the space between the question put to a witness and his answer," it was of himself almost literally true. Would that he had realized his constant dream of an ideal cottage in the old walnut grove in Essex, where he might spend whole summers with his books, his children and his thoughts. ✓

His splendid and blazing intellect, fed and enriched by constant study of the best thoughts of the great minds of the race, his all-persuasive eloquence, his teeming and radiant imagination, whirling his hearers along with it, and sometimes overpowering himself, his brilliant and sportive fancy, lighting up the most arid subjects with the glow of sunrise, his prodigious and never-failing memory, and his playful wit, always bursting forth with irresistible impulse, have been the subject of scores of essays and criticisms, all struggling with the vain effort to describe and crystallize the fascinating and magical charm of his speech and his influence. ✓

But the occasion and the place remind me that here to-day we have chiefly to do with him as the lawyer and the advocate, and all that I shall presume very briefly to suggest is, what this statue will mean to the coming generations of lawyers and citizens.

And first, and far above his splendid talents and his

triumphant eloquence, I would place the character of the man — pure, honest, delivered absolutely from all the temptations of sordid and mercenary things, aspiring daily to what was higher and better, loathing all that was vulgar and of low repute, simple as a child, and tender and sympathetic as a woman. Emerson most truly says that character is far above intellect, and this man's character surpassed even his exalted intellect, and, controlling all his great endowments, made the consummate beauty of his life. I know of no greater tribute ever paid to a successful lawyer, than that which he received from Chief Justice Shaw — himself an august and serene personality, absolutely familiar with his daily walk and conversation — in his account of the effort that was made to induce Mr. Choate to give up his active and exhausting practice, and to take the place of
7 Professor in the Harvard Law School, made vacant by the death of Mr. Justice Story — an effort of which the Chief Justice, as a member of the corporation of Harvard, was the principal promoter. After referring to him then, in 1847, as “the leader of the bar in every department of forensic eloquence,” and dwelling upon the great advantages which would accrue to the school from the profound legal learning which he possessed, he said: “In the case of Mr. Choate, it was considered quite indispensable that he should reside in Cambridge, on account of the influence which his genial manners, his habitual presence, and the *force of his character* would be likely to exert over the young men, drawn from every part of the United States to listen to his instructions.”

What richer tribute could there be to personal and professional worth, than such words from such lips? He was the fit man to mould the characters of the youth, not of the city or the State only, but of the whole nation. So let the statue stand as notice to all who seek to enter here, that

the first requisite of all true renown in our noble profession — renown not for a day or a life only, but for generations — is [character]

And next I would point to it as a monument to self [discipline] and here he was indeed without a rival. You may search the biographies of all the great lawyers of the world, and you will find none that surpassed, I think none that approached him, in this rare quality and power. The advocate who would control others must first, last and always control himself. "Every educated man," he once said, "should remember that 'great parts are a great trust,'" and, conscious of his talents and powers, he surely never forgot that. You may be certain that after his distinguished college career at Dartmouth — first always where there was none second — after all that the law school, and a year spent under the tuition of William Wirt, then at the zenith of his fame, could lend to his equipment, and after the five years of patient study in his office at Danvers, where he was the only lawyer, he brought to the subsequent actual practice of his profession an outfit of learning, of skill and research, which most of us would have thought sufficient for a life time; but with him it was only the beginning. His power of labor was inexhaustible, and down to the last hour of his professional life he never relaxed the most acute and searching study, not of the case in hand only, but of — the whole body of the law, and of everything in history, poetry, philosophy and literature that could lend anything of strength or lustre to the performance of his professional duties. His hand, his head, his heart, his imagination were never out of training. Think of a man already walking the giddy heights of assured success, already a senator of the United States from Massachusetts, or even, years afterwards, when the end of his professional labors was already in sight, schooling himself to daily tasks in law, in rhetoric,

in oratory, seeking always for the actual truth, and for the "best language" in which to embody it, the "precisely one right word" by which to utter it — think of such a man, with all his ardent taste for the beautiful in every domain of human life, going through the grinding work of taking each successive volume of the Massachusetts Reports as they came out, down to the last year of his practice, and making a brief in every case in which he had not been himself engaged, with new researches to see how he might have presented it, and thus to keep up with the procession of the law. Verily, "all things are full of labor; man cannot utter it: the eye is not satisfied with seeing, nor the ear filled with hearing."

So let no man seek to follow in his footsteps, unless he is ready to demonstrate, in his own person, that infinite work is the only touchstone of the highest standing in the law, and that the sluggish and the slothful who enter here must leave all hope behind.

Again we hail this statue, which shall stand here as long as bronze shall endure, as the fit representative of one who was the perfect embodiment of absolute (loyalty) to his profession, in the highest and largest and noblest sense; and, if I might presume to speak for the whole American bar, I would say that in its universal judgment he stands in this regard pre-eminent, yes, foremost still. Truly, he did that pious homage to the Law which Hooker exacted for her from all things in Heaven and Earth, and was governed by that ever-present sense of debt and duty to the profession of which Lord Bacon spoke. He entered her Courts as a High Priest, arrayed and equipped for the most sacred offices of the Temple. He belonged to the heroic age of the bar, and, after the retirement of Webster, he was chief among its heroes. He was the centre of a group of lawyers and advocates, the ablest and the strongest we have known, by whose

aid the chief tribunal of this ancient Commonwealth administered justice so as to give law to the whole country. Such tributes as Loring and Curtis and Dana lavished upon his grave can never wither. Each one of them had been his constant antagonist in the great arena, and each could say with authority, —

“ . . . *experto credite, quantus*
In clypeum assurgat, quo turbine torqueat hastam.”

One after the other, they portrayed in words not to be forgotten his fidelity to the Court, to the client and to the law, his profound learning, his invincible logic, his rare scholarship and his persuasive eloquence, his uniform deference to the Court and to his adversaries — and more and better than all these — what those specially interested in his memory cherish as a priceless treasure — his marvellous (sweetness of temper,) which neither triumph nor defeat nor disease could ruffle, his great and tender and sympathetic heart, which made them, and the whole bench and bar, love him in life, and love him still.

He magnified his calling with all the might of his indomitable powers. Following the law as a profession, or, as Judge Sprague so justly said, “as a science, and also as an art,” he aimed always at perfection for its own sake, and no thought of money, or of any mercenary consideration, ever touched his generous and aspiring spirit, or chilled or stimulated his ardor. He espoused the cause of the poorest client, about the most meagre subject of controversy, with the same fidelity and enthusiasm as when millions were at stake, and sovereign States the combatants. No love of money ever planted the least root of evil in his soul; and this should not fail to be said in remembrance of him, in days when money rules the world.

His theory of advocacy was the only possible theory con-

sistent with the sound and wholesome administration of justice—that, with all loyalty to truth and honor, he must devote his best talents and attainments, all that he was, and all that he could, to the support and enforcement of the cause committed to his trust. It is right here to repeat the words of Mr. Justice Curtis, speaking for himself and for the whole bar, that “Great injustice would be done to this great and eloquent advocate, by attributing to him any want of loyalty to truth, or any deference to wrong, because he employed all his great powers and attainments, and used to the utmost his consummate skill and eloquence, in exhibiting and enforcing the comparative merits of one side of the cases in which he acted. In doing so he but did his duty. If other people did theirs, the administration of justice was secure.”

7 His name will ever be identified with trial by jury, the
department of the profession in which he was absolutely
supreme. He cherished with tenacious affection and interest
its origin, its history and its great fundamental maxims—
7 that the citizen charged with crime shall be presumed innocent until his guilt shall be established beyond all reasonable doubt; that no man shall be deprived by the law of property or reputation until his right to retain it is disproved by a clear preponderance of evidence to the satisfaction of all the twelve; that every suitor shall be confronted with the proofs by which he shall stand or fall; that only after a fair hearing, with full right of cross-examination, and the observance of the vital rules of evidence, shall he forfeit life, liberty or property, and then only by the judgment of his peers.

Regarding these cardinal principles of Anglo-Saxon justice and policy as essential to the maintenance of liberty and of civil society, he stood as their champion

“with spear in rest and heart on flame,”

sheathed in the panoply of genius.

To-day, when we have seen a great sister republic on the verge of collapse for the violation of these first canons of freedom, we may justly honor such a champion.

But he displayed his undying loyalty to the profession on a still higher and grander scale, when he viewed and presented it as one of the great and indispensable departments of government, as an instrumentality for the well-being and conservation of the State. "*Pro clientibus saepe; pro lege, pro republica semper.*"

I regard the magnificent argument which he made[on the judicial tenure in the Constitutional Convention of 1853] as the greatest single service which he ever rendered to the profession, and to the Commonwealth, of which he was so proud. You will observe, if you read it, that it differs radically in kind, rather than in degree, from all his other speeches, arguments and addresses. 7.v.

Discarding all ornament, restraining with careful guard all tendency to flights of rhetoric, in clear and pellucid language, plain and unadorned, laying bare the very nerve of his thought, as if he were addressing, as no doubt he meant to address and convince, not alone his fellow delegates assembled in the Convention, but the fishermen of Essex, the manufacturers of Worcester and Hampden, and the farmers of Berkshire—all the men and women of the Commonwealth, of that day and of all days to come—he pleads for the continuance of an appointed judiciary, and for the judicial tenure during good behavior, as the only safe foundations of justice and of liberty.

He draws the picture of a "good judge profoundly learned in all the learning of the law"; "not merely upright and well intentioned"; "but the man who will not respect persons in judgment"; standing only for justice, "though the thunder should light upon his brow," while he holds the balance even, to protect the humblest and most odious

individual against all the powers and the people of the Commonwealth; and "possessing at all times the perfect confidence of the community, that he bear not the sword in vain." He stands for the existing system which had been devised and handed down by the founders of the State, and appeals to its uniform success in producing just that kind of a judge; to the experience and example of England since 1688; to the Federal system which had furnished to the people of the Union such illustrious magistrates; and finally to the noble line of great and good judges who had from the beginning presided in your courts. He then takes up and disposes of all objections and arguments drawn from other States, which had adopted an elective judiciary and shortened terms, and conclusively demonstrates that to abide by the existing constitution of your judicial system was the only way to secure to Massachusetts forever "a government of laws and not of men."

It was on one of the red-letter days of my youth that I listened to that matchless argument, and, when it ended, and the last echoes of his voice died away as he retired from the old Hall of the House of Representatives, leaning heavily upon the arm of Henry Wilson, all crumpled, dishevelled and exhausted, I said to myself that some virtue had gone out of him — indeed some virtue did go out of him with every great effort — but that day it went to dignify and ennoble our profession, and to enrich and sustain the very marrow of the Commonwealth. If ever again that question should be raised within her borders, let that argument be read in every assembly, every church and every school-house. Let all the people hear it. It is as potent and unanswerable to-day, and will be for centuries to come, as it was nearly half a century ago when it fell from his lips. Cling to your ancient system, which has made your Courts models of jurisprudence to all the world until this hour. Cling to it, and

freedom shall reign here until the sunlight shall melt this bronze, and justice shall be done in Massachusetts though the skies fall.

And now, in conclusion, let me speak of his patriotism. I have always believed that Mr. Webster, more than any other one man, was entitled to the credit of that grand and universal outburst of devotion, with which the whole North sprang to arms in defence of the Constitution and the Union, many years after his death, when the first shot at Fort Sumter, like a fire bell in the night, roused them from their slumber, and convinced them that the great citadel of their liberties was in actual danger. Differ as we may and must as to his final course in his declining years, the one great fact can never be blotted out, that the great work of his grand and noble life was the defence of the Constitution — so that he came to be known of all men as its one Defender — that for thirty years he preached to the listening nation the crusade of nationality, and fired New England and the whole North with its spirit. He inspired them to believe that to uphold and preserve the Union, against every foe, was the first duty of the citizen; that if the Union was saved, all was saved; that if that was lost, all was lost. He moulded better even than he knew. It was his great brain that designed, his flaming heart that forged, his sublime eloquence that welded the sword, which was at last, when he was dust, to consummate his life's work, and make Liberty and Union one and inseparable forever.

And so, in large measure, it was with Mr. Choate. His glowing heart went out to his country with the passionate ardor of a lover. He believed that the first duty of the lawyer, orator, scholar, was to her. His best thoughts, his noblest words, were always for her. Seven of the best years of his life, in the Senate and House of Representatives, at the greatest personal sacrifice, he gave absolutely to her

service. On every important question that arose, he made, with infinite study and research, one of the great speeches of the debate. He commanded the affectionate regard of his fellows, and of the watchful and listening nation. He was a profound and constant student of her history, and revelled in tracing her growth and progress from Plymouth Rock and Salem Harbor, until she filled the continent from sea to sea. He loved to trace the advance of the Puritan spirit, with which he was himself deeply imbued, from Winthrop and Endicott, and Carver and Standish, through all the heroic periods and events of colonial and revolutionary and national life, until, in his own last years, it dominated and guided all of free America. He knew full well, and displayed in his many splendid speeches and addresses, that one unerring purpose of freedom and of Union ran through her whole history; that there was no accident in it all; that all the generations, from the "Mayflower" down, marched to one measure and followed one flag; that all the struggles, all the self-sacrifice, all the prayers and the tears, all the fear of God, all the soul trials, all the yearnings for national life, of more than two centuries, had contributed to make the country that he served and loved. He, too, preached, in season and out of season, the gospel of Nationality. He was the faithful disciple of Webster, while that great Master lived, and, after his death, he bore aloft the same standard and maintained the same cause. Mr. Everett spoke nothing more than the truth, when he said in Faneuil Hall, while all the bells were tolling, at the moment when the vessel bringing home the dead body of his lifelong friend cast anchor in Boston Harbor: "If ever there was a truly disinterested patriot, Rufus Choate was that man. In his political career there was no shade of selfishness. Had he been willing to purchase advancement at the price often paid for it, there was never a moment, from the time he

first made himself felt and known, that he could not have commanded anything that any party had to bestow. But he desired none of the rewards or honors of success."

He foresaw clearly that the division of the country into geographical parties must end in civil war. What he could not see was, that there was no other way—that only by cutting out slavery by the sword, could America secure Liberty and Union too—but to the last drop of his blood, and the last fibre of his being, he prayed and pleaded for the life of the nation according to his light. Neither of these great patriots lived to see the fearful spectacle which they had so eloquently deprecated. But when at last the dread day came, and our young heroes marched forth to bleed and die for their country—their own sons among the foremost—they carried in their hearts the lessons which both had taught, and all Massachusetts, all New England, from the beginning, marched behind them, "carrying the flag and keeping step to the music of the Union," as he had bade them, and so, I say, let us award to them both their due share of the glory.

Thus to-day we consign this noble statue to the keeping of posterity, to remind them of "the patriot, jurist, orator, scholar, citizen, and friend," whom we are proud to have known and loved.

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